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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,330	04/05/2000	Julie Rae Kowald	169.1658	6705
5514	7590	04/20/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ONUAKU, CHRISTOPHER O	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/543,330	<b>Applicant(s)</b> KOWALD, JULIE RAE	
	<b>Examiner</b> Christopher Onuaku	<b>Art Unit</b> 2621	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: 3, 4, 8, 10, 14, 15, 24, 25, 28, 29, 38, 40 and 41.  
 Claim(s) rejected: 1, 2, 5-7, 9, 12, 13, 16-20, 22, 23, 27, 30-37, 39, 42-53 and 55-71.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
(See attached).  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.

***Response to Arguments***

1. Applicant's arguments filed 3/10/06 have been fully considered but they are not persuasive.

2. Applicant argues that Ohmori et al fail to disclose a "predetermined template of editing rules to perform editing instruction data". Examiner disagrees.

Ohmori clearly discloses the creation of edited list defining the edit content for obtaining a desired edited image and sound by combining individual registered clips together in a desired state, and further actually perform an edit processing in accordance with the edited list created in order to record the obtained edited image and edited sound on a video tape (see col.5, lines 20-27).

It is obvious that the edited list reads on the claimed template. An edited list is created which combines individual clips together in a desired state to define the desired edit content for obtaining a desired image and/or sound. When this edited list creation is completed, the editing process is then performed in accordance with the edited list in order to record the obtained the edited image and/or sound on a video tape.

Applicant argues that Ohmori et al fail to disclose edit decision list. However, Ohmori et al disclose edited list which as discussed above functions as an edit decision list. The edited list is predefined and predetermined.

Applicant argues that nothing has been found in Ohmori et al that is believed to teach or suggest discarding or processing the duration of the at least one clip according to at least one predetermined template of editing rules to form editing instruction data,

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as recited in claim 1. In response, it is pertinent to point out that the editing process inherently includes the discarding of some unwanted portions of clips that are being edited during the editing process. When the edited list is being created, by combining plurality of clips, inherently some unwanted portions of the clips are discarded, thereby modifying the clip durations, in order to bring the final edited output to the desired state.

Applicant's arguments with reference to claim 46 are similar to applicant's arguments with reference to claim 1 because the claimed "clips that are associated by a predetermined time function" reads on the clips processed/edited to create Ohmori's edited list as discussed above., since the processing of the clips during the creation of edited list include duration (beginning and end time) processing/modification.

Examiner's response to applicant's arguments with respect to claim 1 and claim 46 accommodate applicant's arguments with respect to the other independent claims 22,35&55, since the claimed features of these other independent claims are similar.

The rejections are, therefore, maintained.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Onuaku whose telephone number is 571-272-7379. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
COO

4/13/06

  
THAI TRAN  
PRIMARY EXAMINER